

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	No. ED100516
)	
Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	Honorable Rex M. Burlison
ALVIN S. SPEARS,)	
)	
Appellant.)	Filed: November 25, 2014

Appellant Alvin S. Spears, Jr. (“Spears”) appeals from the judgment of the Circuit Court of the City of St. Louis (“trial court”) finding him guilty of felony possession of a controlled substance and misdemeanor possession of a controlled substance. Spears argues that the trial court erred in (1) allowing Officer Kenneth Allen’s (“Allen”) late endorsement as a witness for the State, (2) overruling Spears’s motion to suppress oral statements he made to the arresting officers, Allen and Officer Adam Feaman (“Feaman”), as well as his objection to those statements at trial, and (3) overruling Spears’s objection to the admission of two of the State’s exhibits. Spears further argues that the case should be remanded to the trial court with instructions to issue an order *nunc pro tunc* correcting the judgment form to remove all references to Spears being a prior and persistent offender.

AFFIRMED IN PART, REVERSED IN PART.

Division III holds: The trial court did not abuse its discretion in permitting Allen’s testimony because Spears suffered no genuine surprise as a result of the State’s late endorsement of Allen as a witness. Because Spears’s oral statements to Feaman and Allen were not made during a custodial interrogation and were spontaneous and voluntary in nature, the trial court did not clearly err in overruling Spears’s motion to suppress or his objection at trial. Further, the trial court committed no error, plain or otherwise, by admitting State’s Exhibits 2A and 2B into evidence because the evidence at trial established a sufficient chain of custody for the exhibits. Finally, we remand the case to the trial court with instructions to issue an order *nunc pro tunc* correcting the judgment form to remove all references to Spears being a persistent offender.

Opinion by: Kurt S. Odenwald, P.J., Robert G. Dowd, Jr., J. and Gary M. Gaertner, Jr., J. Concur.

Attorney for Appellant: Lisa M. Stroup

Attorney for Respondent: Chris Koster and Richard Starnes

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.